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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/334,978	06/17/1999	JOHN C. WEBBER	1365-021C	5936

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EXAMINER

PASS, NATALIE

ART UNIT PAPER NUMBER

2165

DATE MAILED: 04/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/334,978

Applicant(s)

WEBBER ET AL.

Examiner

Natalie A. Pass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/22/00.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 June 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02. The oath or declaration is defective because: the signing date of the Declaration predates the filing date by more than four years.

Drawings

2. Figures 1-4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. U.S. Patent No. 6,009,413, Figures 1-4, has taught these drawings.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

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Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,009,413. Although the conflicting claims are not identical, they are not patentably distinct from each other because '413 teaches a system for real-time shopping in which a user's personal computer may access a variety of information regarding products and services, through a computer network, in real time. The computer network formats the information, collected from various merchants, into a recognizable format to be viewed by a user at the user's personal computer.

Claim Rejections - 35 USC § 102

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 4, 10, 11, 12, 18, 21, 26 are rejected under 35 U.S.C. 102(b) as being as being anticipated by Suzuki, U.S. Patent Number 5, 715, 448.

Regarding claims 1, 11, 18, and 21, Suzuki teaches an electronic shopping system, comprising a first connection between a first merchant computer (Figure 1, Item 10 – Apparel Manufacturer A) and a network host computer (Figure 1, Item 52, column 4, lines 22-23), said first connection for transmitting product information (Figure 2, column 3, lines 10-11) to said network host computer in accordance with a first type of connectivity.

Suzuki also teaches a second connection between a second merchant computer (Figure 1, Item 10 – Apparel Manufacturer B) and said network host computer, said second connection for transmitting product information to said network host computer in accordance with a second type of connectivity.

Suzuki further discloses a database at said network host computer (see at least Figure 1, Item 53, column 4, lines 12-16, Figure 4) for storing said product information from said first merchant computer and said second merchant computer.

Suzuki also discloses a first computer program at said network host computer for assimilating or processing said product information (Figure 3, column 5, lines 6-9) and a third connection between said network host computer and a customer computer (Figure 1, Item 20) said third connection for transmitting said assimilated or processed product information to said customer computer (Figure 3, column 5, lines 10-16) and for transmitting real time updates (column 5, lines

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31-32, 47-48) to said product information, said real time updates obtained in accordance with said first connection and said second connection.

Regarding claim 11, Suzuki also teaches establishing a connection between a customer computer and a host computer in communication with said database, said customer computer adapted to display information received from said host computer (column 4, lines 22-29, Figure 2), receiving at said host computer a request from said customer computer for product information from said database (column 8, lines 59-64, Figure 9, Item S12), and displaying said assimilated or processed product information at said customer computer (column 9, lines 1-6).

Regarding claim 21, Suzuki discloses a system comprising product information not only from a first and second merchant computer but also from a plurality of merchant computers, a plurality of connections between said plurality of merchant computers and a host computer (Figure 1, Items 10, 30, 40).

7. Regarding claims 3 and 26, Suzuki teaches the electronic shopping system discussed above, wherein said customer computer utilizes an information management interface (Figure 1, Item 51B) to simplify communication between said customer computer and said network host computer.

8. Regarding claim 4, Suzuki teaches the electronic shopping system discussed above, wherein said customer computer utilizes said second computer program to further process said product information (column 9, lines 31-38).

9. Regarding claim 10, Suzuki teaches the electronic shopping system discussed above, wherein said real time updates to said assimilated or processed product information at said customer computer are obtained in response to a customer computer request for updated product information (Figure 9, Item S12, column 8, lines 61-63).

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10. Regarding claim 12, Suzuki discloses generating a display of assimilated or processed product information in response to real time changes to product information from said first merchant computer and said second merchant computer (column 5, lines 30-31, 47-48).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2, 14, 15, 22, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, U.S. Patent Number 5, 715, 448 in view of Atcheson, U.S. Patent Number 5, 583, 763.

Suzuki teaches the invention as described above in the 102 rejection.

Suzuki does not expressly disclose an electronic shopping system wherein said first connection and said second connection further comprise a connection between said first merchant computer and a regional host computer; a connection between said second merchant computer and said regional host computer; and a connection between said regional host computer and said network host computer, wherein said regional host computer receives said product information from said first merchant computer and said second merchant computer and transmits said product information to said network host computer.

Atcheson teaches a connection between said first merchant user computer and a regional host computer (Figure 1, Item 110, column 3, lines 15-24) and also a connection between said second merchant user computer and said regional host computer (Figure 1, Items 108, 110, 104,

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column 3, lines 15-24). Acheson also discloses a regional host computer adapted to facilitate said plurality of connections between said plurality of merchant computers and said host computer (Figure 1) and wherein said product information is assimilated or processed at said regional host computer (column 3, lines 43-49, column 4, lines 37-42).

Acheson also teaches a connection between said regional host computer and said network host computer, (Figure 1, Item 106) wherein said regional host computer receives said product information from said first computer and said second merchant computer and transmits said product information to said network host computer (Figure 1, Item 110, column 3, lines 15-38, Figure 2, column 4, lines 32-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Suzuki to utilize connections to regional host computers in storing and transferring product information as taught by Acheson for functionality and efficiency purposes. For example, a regional host is able to act as a "front end" to host processing stations, to perform input and output (I/O) functions for each of the multiple terminals connected to it, to operate as a communications control station between user terminals and the host processing station, to possibly provide local storage for users, and to provide services to smaller groups of users on local networks, allowing more efficient and effective processing of information.

13. Claims 5, 6, 7, 8, 16, 17, 20, 24, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, U.S. Patent Number 5, 715, 448 in view of Wiecha, U.S. Patent Number 5, 870, 717.

Regarding claims 5, 7, 16, 17, 24, 25, Suzuki teaches the invention as described above in the 102 rejection. Suzuki does not expressly disclose an electronic shopping system wherein

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said first connection comprises a switch in communication with said first merchant computer and said network host computer, said switch adapted to assimilate said product information from said first merchant computer and to transfer said product information to said network host computer

Wiecha teaches a connection which comprises a switch in communication between said first merchant computer and said network host computer, said switch adapted to assimilate or process said product information from said first merchant computer and to transfer said product information to said network host computer (column 4, lines 22-40, Figures 6, 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Suzuki to include a network device such as a switch as taught by Wiecha to select a path or circuit for transferring a unit of data such as product information to its next destination. For example, switches provide flexibility in a network and may also include functions of routers, network devices or software that are connected to at least two networks and determine the next network point to which a packet should be forwarded. Routers decide which way to send each information packet based the state of the networks to which it is connected. Routers are located at any gateway (where one network meets another), and are often included as part of a network switch. In general, a switch is a simpler and faster mechanism than a router, which requires knowledge about the network and how to determine the route.

Regarding claims 6, 8, 20, Suzuki does not expressly disclose an electronic shopping system wherein said first connection is a packet switch network, Ethernet, or modem connection.

Wiecha teaches a communication system that involves moving files over systems that are connected with multiple protocols (Figure 11, Item 30, Item 312, column 7, lines 40-57).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Suzuki to utilize network connections as taught by Wiecha wherein said first connection is a packet switch network, Ethernet, or modem connection because each of these connections provide efficient means of moving product information through networks. For example, using packet switching all network users can share the same paths at the same time, and the actual route a data unit travels can be varied as conditions change. In packet switching, a message is divided into packets, which are units of a certain number of bytes. The network addresses of the sender and of the destination are added to the packet. Each network point looks at the packet to see where to send it next. Packets in the same message may travel different routes and may not arrive in the same order that they were sent. At the destination, the packets in a message are collected and reassembled into the original message.

14. Regarding claims 9, 13, 19, Suzuki does not expressly disclose an electronic shopping system wherein said first type of connectivity and said second type of connectivity are selected from the group of TCP/IP or SNA connectivity.

Wiecha teaches a system wherein said first type of connectivity and said second type of connectivity are selected from the group of protocols such as TCP/IP or SNA connectivity (Figure 11, Item 308, Item 310, column 7, lines 40-57).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Suzuki to utilize a first type and second type of connectivity selected from the group of protocols such as TCP/IP or SNA connectivity, as taught by Wiecha. TCP/IP is the basic communication language or protocol of the Internet. It can also be used as a communications protocol in a private network (either an intranet or an extranet). TCP/IP uses the

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client/server model of communication in which a computer user (a client) requests and is provided a service by another computer (a server) in the network. TCP/IP communication is primarily point-to-point, meaning each communication is from one point (or host computer) in the network to another point or host computer. SNA is a proprietary architecture, and set of implementing products for network computing, which allows computers located throughout a network to communicate in a large number of ways, for example multiple active 'conversations' using whole duplex mode or single 'conversations' using half duplex.. Both protocols provide efficient means of moving product information.

15. The prior art made of record and not relied upon has been included because it is representative of the general nature of the art.

Jones, U.S. Patent No. 6,026, 429, teaches a system with a plurality of information sources, a means for storing information from numerous sources on the Internet in a database, a means for a user to access the information with a search request, and an update mechanism for the information that uses Internet protocols involving TCP/IP, where a single search presents the user with a list of all available resources on a desired topic, thus shielding the user from the intricacies of information retrieval from different sources (column 3, lines 50-67, column 4, lines 1-6, column 9, lines 18-55, column 10, lines 14-16).

Wojcik, U.S. Patent No. 5,666, 493, September 9, 1997, shows a system for processing customer orders which includes generating orders in response to input requests from a plurality of users on a plurality of terminals, interface modules for coordinating access to a plurality of databases, including inventory databases which are connected to the customer order databases,

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interaction between users and the databases, means for automatically checking inventory for availability in response to customer requests (column 20, lines 46-67, column 21, lines 1-11).

Belden, EP 388162 A2, September 19, 1990, shows an apparatus for market trading including a host processor and a plurality of user terminals which have display means, entry means, communication means for transferring data between the user terminals and the host, and where the host simultaneously executes transactions between a first user and one or a plurality of second users selected by the first user (see at least column 21, lines 1-58 and column 22, line 1).

Ono et al EP 845749 A2, June 3, 1998, shows a system for transmitting product information in response to user input through a communication network and comparing said product information with other product information (see at least column 16, lines 32-58, column 17, lines 3-16).

Kroger Links Networks To Wireless Technology, Millstein, Marc. Supermarket News, July 31, 1995, p9.

SabreNet's New Net Ready for Takeoff, Csenger, Michael. CommunicationsWeek, June 13, 1994, p4.

IRS Database Management Plugs Communications Gap, (Internal Revenue Service) Hosinski, Joan M., Government Computer News, May 29, 1989, v8, n11, p31(1).


16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (703) 305-3980. The examiner can normally be reached on M-F from 8:00 to 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins, can be reached on (703) 308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final Communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

NP Natalie A. Pass
April 3, 2002


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